

Assembly Bill No. 1316

CHAPTER 373

An act to amend Sections 20303 and 22050 of the Public Contract Code, and to amend Sections 100012, 100019, 100060, 100061, 100370, 100400, and 100483 of, to add Sections 100091 and 100115 to, and to repeal Sections 100480 and 100481 of, the Public Utilities Code, relating to transportation.

[Approved by Governor August 26, 1997. Filed with
Secretary of State August 26, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1316, Alquist. Santa Clara County Transit District.

Under the Santa Clara County Transit District Act, the Santa Clara County Transit District was formed to adopt a general transit plan for the district and provide transit service for the transportation of passengers. The act specifies the duties and responsibilities of the district, and defines various terms.

This bill would clarify various provisions of the act relating to the definitions of "transit" and "persons," agreements among specified cities in the County of Santa Clara, and powers of the district, including specified employees. The bill would delete obsolete provisions and make related changes.

The bill would incorporate additional changes in Section 22050 of the Public Contract Code proposed by SB 79 to become operative only if this bill and SB 79 are enacted and become effective on or before January 1, 1998, each bill amends Section 22050 of the Public Contract Code, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 20303 of the Public Contract Code is amended to read:

20303. In case of an emergency, as defined under Section 1102, the board, upon adopting a resolution passed by a four-fifths vote of all its members, declaring and determining that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, may expend, or enter into a contract involving the expenditure of, any sum needed in the emergency without observing the provisions requiring contracts, bids, or notice. If notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 2. Section 22050 of the Public Contract Code is amended to read:

22050. (a) (1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of the governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(b) (1) The governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer the authority to order any action pursuant to paragraph (1) of subdivision (a).

(2) If the public agency has no county administrative officer, city manager, chief engineer, or other nonelected agency officer, the governing body, by a four-fifths vote, may delegate to an elected officer the authority to order any action specified in paragraph (1) of subdivision (a).

(3) If a person with authority delegated pursuant to paragraph (1) or (2) of this section orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

(c) (1) If the governing body orders any action specified in subdivision (a), the governing body shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the governing body meets weekly, it may review the emergency action in accordance with this paragraph every 14 days.

(2) If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that

action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.

(3) When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

(d) As used in this section, “public agency” has the same meaning as defined in Section 22002.

(e) A three-member governing body may take actions pursuant to subdivision (a), (b), or (c) by a two-thirds vote.

(f) This section applies only to emergency action taken pursuant to Sections 20133, 20168, 20193, 20134, 20168, 20205.1, 20213, 20223, 20233, 20253, 20273, 20283, 20293, 20303, 20313, 20331, 20567, 20586, 20604, 20635, 20645, 20685, 20736, 20751.1, 20806, 20812, 20914, 20918, 20926, 20931, 20941, 20961, 20991, 21020.2, 21024, 21031, 21043, 21061, 21072, 21081, 21091, 21101, 21111, 21121, 21131, 21141, 21151, 21161, 21171, 21181, 21191, 21196, 21203, 21212, 21221, 21231, 21241, 21251, 21261, 21271, 21290, 21311, 21321, 21331, 21341, 21351, 21361, 21371, 21381, 21391, 21401, 21411, 21421, 21431, 21441, 21451, 21461, 21472, 21482, 21491, 21501, 21511, 21521, 21531, 21541, 21552, 21567, 21572, 21581, 21591, 21601, 21618, 21624, 21631, 21641, and 22035.

SEC. 2.5. Section 22050 of the Public Contract Code is amended to read:

22050. (a) (1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of the governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(b) (1) The governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer the authority to order any action pursuant to paragraph (1) of subdivision (a).

(2) If the public agency has no county administrative officer, city manager, chief engineer, or other nonelected agency officer, the governing body, by a four-fifths vote, may delegate to an elected

officer the authority to order any action specified in paragraph (1) of subdivision (a).

(3) If a person with authority delegated pursuant to paragraph (1) or (2) of this section orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

(c) (1) If the governing body orders any action specified in subdivision (a), the governing body shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the governing body meets weekly, it may review the emergency action in accordance with this paragraph every 14 days.

(2) If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.

(3) When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

(d) As used in this section, “public agency” has the same meaning as defined in Section 22002.

(e) A three-member governing body may take actions pursuant to subdivision (a), (b), or (c) by a two-thirds vote.

(f) This section applies only to emergency action taken pursuant to Sections 20133, 20168, 20193, 20134, 20168, 20205.1, 20213, 20223, 20233, 20253, 20273, 20283, 20293, 20303, 20313, 20331, 20567, 20586, 20604, 20635, 20645, 20685, 20711, 20736, 20751.1, 20792, 20806, 20812, 20914, 20918, 20926, 20931, 20941, 20961, 20991, 21020.2, 21024, 21031, 21043, 21061, 21072, 21081, 21091, 21101, 21111, 21121, 21131, 21141, 21151, 21161, 21171, 21181, 21191, 21196, 21203, 21212, 21221, 21231,

21241, 21251, 21261, 21271, 21290, 21311, 21321, 21331, 21341, 21351, 21361, 21371, 21381, 21391, 21401, 21411, 21421, 21431, 21441, 21451, 21461, 21472, 21482, 21491, 21501, 21511, 21521, 21531, 21541, 21552, 21567, 21572, 21581, 21591, 21601, 21618, 21624, 21631, 21641, 21700, and 22035.

SEC. 3. Section 100012 of the Public Utilities Code is amended to read:

100012. “Transit” means the transportation of passengers and their incidental baggage by any means, and includes rapid transit.

SEC. 4. Section 100019 of the Public Utilities Code is amended to read:

100019. “Person” includes any individual, firm, copartnership, association, corporation, trust, limited liability company, business trust or receiver or trustee or conservator for any thereof, but does not include a public agency, as defined in this chapter.

SEC. 5. Section 100060 of the Public Utilities Code is amended to read:

100060. (a) The government of the district shall be vested in a board of directors which shall consist of 12 members, as follows:

(1) Two representatives of the county and one alternate who shall be members of the board of supervisors of the county, appointed by the board of supervisors.

(2) Five representatives of the City of San Jose and one alternate who shall be city council members of the City of San Jose, appointed by the city council.

(3) Five city council members selected from among the city councils of all of the cities in the county, other than the City of San Jose, as provided by agreements among those cities. The agreements may provide for the appointment of alternates, who shall be city council members, for those city representatives.

(b) An alternate may vote in the place of a director represented by that alternate if the director is absent.

(c) To the extent possible, the appointing powers shall appoint individuals who have expertise, experience, or knowledge relative to transportation issues.

SEC. 6. Section 100061 of the Public Utilities Code is amended to read:

100061. The board of directors shall annually elect a chairperson who shall preside at all meetings. The board of directors shall also annually elect a vice chairperson, who, in the event of the chairperson’s absence or inability to act, shall act as chairperson, and while so acting, shall have all of the authority of the chairperson.

SEC. 7. Section 100091 is added to the Public Utilities Code, to read:

100091. The secretary and those assistants that the board designates may administer all oaths or affirmations required by law, including the oath of office.

SEC. 8. Section 100115 is added to the Public Utilities Code, to read:

100115. The district may exercise any and all powers granted by any other law that, by its terms, is applicable to transit districts generally, to public agencies generally, or to any classification of districts or public agencies that includes a district of the type provided for in this part, but the district shall not exercise any power contrary to an express provision of this part.

SEC. 9. Section 100370 of the Public Utilities Code is amended to read:

100370. The board may establish a retirement system for the officers and employees of the district and provide for the payment of annuities, pensions, retirement allowances, disability payments, and death benefits or any of them. The adoption, terms, and conditions of any retirement system covering employees of the district in a bargaining unit represented by a labor organization shall be pursuant to a collective bargaining agreement between the labor organization and the district. For purposes of this section, “officers” does not include members of the board of directors.

SEC. 10. Section 100400 of the Public Utilities Code is amended to read:

100400. Whenever the board deems it necessary for the district to incur a bonded indebtedness for the acquisition, construction, or repair of any or all improvements, works, property, or facilities, authorized by this part or necessary or convenient for the carrying out of the powers of the district, or for any other purpose authorized by this part, the board shall, by ordinance, adopted by a vote of two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the district, provided the total amount of bonds issued and outstanding pursuant to this article shall not exceed 15 percent of the assessed value of the taxable property of the district as shown by the last equalized assessment roll of the County of Santa Clara. The ordinance shall state:

(a) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to or connected with the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant, and other fees; bond and other reserve funds; working capital; bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter; and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(b) The estimated cost of accomplishing those purposes.

(c) The amount of the principal of the indebtedness.

(d) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 50 years from the date thereof or the date of each series thereof.

(e) The maximum rate of interest to be paid, which shall not exceed 7 percent per annum.

(f) The proposition to be submitted to the voters, which may include one or more purposes.

(g) The date of the election.

(h) The manner of holding the election and the procedure for voting for or against the measure.

(i) The ordinance may also contain a statement that the retail transaction and use tax mentioned in Article 9 (commencing with Section 100250) of Chapter 5 of this part, or a stated portion thereof, shall be levied, or continued to be levied, and used to the extent required to pay principal of and interest on the bonds as they become due, to provide for any sinking fund payments required therefor, or to create or maintain any reserve fund required therefor.

(j) The ordinance may also contain any other matters authorized by this part or any other law.

SEC. 11. Section 100480 of the Public Utilities Code is repealed.

SEC. 12. Section 100481 of the Public Utilities Code is repealed.

SEC. 13. Section 100483 of the Public Utilities Code is amended to read:

100483. The district may borrow money in anticipation of the sale of bonds that have been authorized to be issued, but have not been sold and delivered, and may issue negotiable bond anticipation notes therefor and may renew the same from time to time, but the maximum maturity of those notes, including the renewals thereof, shall not exceed five years from the date of delivery of such original notes. The notes may be paid from any moneys of the district available therefor and not otherwise pledged. If not previously otherwise paid, the notes shall be paid from the proceeds of the next sale of the bonds of the district in anticipation of which they were issued. The notes shall not be issued in any amount in excess of the aggregate amount of bonds which the district has been authorized to issue, less the amount of any bonds of that authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The notes shall be issued and sold in the same manner as the bonds. The notes and the resolution or resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the district authorizing the issuance of bonds may contain.

SEC. 14. Section 2.5 of this bill incorporates amendments to Section 22050 of the Public Contract Code proposed by both this bill and SB 79. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 22050 of the Public Contract Code, and (3) this bill

is enacted after SB 79, in which case Section 2 of this bill shall not become operative.

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